

Department of Permits and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204
Baltimore County, Maryland

In the Matter of
Kelly O'Brien
Respondent

Civil Citation No. 60309
4101 Hupa Place

FINDINGS OF FACT AND CONCLUSIONS OF LAW
FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Code Enforcement Hearing Officer for the Department of Permits and Development Management on May 27, 2009, for a hearing on a citation for violations under the Baltimore County Code (BCC) section 12-3-106; 13-7-309, 13-7-310 failure to remove dog feces from the property on a daily basis on residential property zoned DR 10.5 known as 4101 Hupa Place, 2133.

On May 27, 2009, pursuant to §3-6-205, Baltimore County Code, Code Enforcement Officer, issued a code enforcement citation. The citation was sent to the Respondent by 1st class mail to the last known address listed in the Maryland State Tax Assessment files.

The citation proposed a civil penalty of \$200.00 (two hundred dollars).

The following persons appeared for the Hearing and testified: the Respondent, Kelly O'Brien, Complainant, Demetrius Martin and, Paul Cohen, Baltimore County Code Enforcement Officer.

After proper consideration of all the evidence and testimony presented, the Hearing Officer finds:

A. A Correction Notice was issued on March 9, 2009 requesting daily removal of animal feces from Respondent's property. This Citation was issued on May 7, 2009. Inspector Cohen testified that he had closed the case in March 2009 when it appeared that Respondent was in compliance and all dog waste was being picked up, but that he issued the immediate Citation in May 2009 under departmental policy for chronic offenders. Inspector Cohen testified that he observed many piles of dog feces in the rear yard. Photographs in the file show extensive quantities of dog feces in Respondent's back yard.

B. Respondent Kelly O'Brien testified that she has two dogs in the rear yard of her end of townhouse unit, and that the rear yard is enclosed by a six-foot privacy fence. She further testified that she believes complaints are being lodged in retaliation against her and her boyfriend. She testified that she cleans up every day after the dogs, within 24 hours, but that she is out of the house for work each day.

C. Mr. Demetrius Martin lives next door and has an elevated deck that overlooks Respondent's property. Mr. Martin testified that the dog waste is not picked up every day and that the smell affects his enjoyment of his property, and that the smell restricts the use of their yard and deck by the children in their residential day care.

D. Respondent O'Brien testified that in future all dog waste will be picked up on a daily basis. Because compliance is the goal of code enforcement, the proposed civil penalty will be rescinded if the violation is corrected.

IT IS ORDERED by the Code Enforcement Hearing Officer that a civil penalty be imposed in the amount of \$200.00 (two hundred dollars).

IT IS FURTHER ORDERED that the civil penalty will be RESCINDED and reduced to zero dollars if re-inspections between the date of this Order and August 1, 2009 find no repeat violation. If the Respondent fails to correct the violation, the civil penalty shall be imposed and placed as a lien upon the property, and additional Citations may be issued for additional violations.

IT IS FURTHER ORDERED that the County inspect the property to determine whether the violations have been corrected.

ORDERED this 29th day of May 2009.

Signed: ORIGINAL SIGNED
Margaret Z. Ferguson
Baltimore County Hearing Officer

NOTICE TO RESPONDENT: The Respondent is advised that (1) pursuant to §3-6-206(g)(2) of the Baltimore County Code, the Respondent may make written application to the Director of the Department of Permits & Development Management within 10 days to modify or amend this order and (2) pursuant to §3-6-301(a), Baltimore County Code, the Respondent may appeal this order to the Baltimore County Board of Appeals within fifteen (15) days from the date of this order; any such appeal requires the filing of a petition setting forth the grounds for appeal, payment of a filing fee of \$150 and the posting of security to satisfy the penalty assessed.